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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/592,563
Filing Date: June 12, 2000
Appellant(s): KINSELLA, MIKE

MAILED

FEB 24 2005

Technology Center 2600

For Appellant

John C. Eisenhart

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/02/2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-6, 9-22, 7-8, 23-27, 29, 32-45 and 30-31 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,549,768

FRACCAROLI

4-2003

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4, 9, 11, 15, 17-19 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by the prior art admitted by Fraccaroli (US 6,549,768).

Regarding claim 1, the admitted prior art of Fraccaroli teaches a message pushing system for sending messages to recipients, the system comprising a database of details of individual potential recipients (col. 1, line 29), inherently including telecommunications links for communicating with message sending and message receiving devices (e-mail, col. 1, line 47), the message pushing system being adapted to receive a message from a message sending means, the message comprising details of the intended recipient of the message, wherein the message pushing system compares the details of the intended recipient of the message with the database of potential recipient's details thereby establishing one or more members who may be the intended recipient, the message pushing system (1) being adapted to transmit said message to the message receiving

means of the one or more members who may be the intended recipient (see matching, col. 1, lines 25-52).

Regarding claims 2-3, the admitted prior art of Fraccaroli also teaches that the details of individual potential recipients including their sex, their hair length and color, their eye color, their age, their height (col. 1, line 32-35).

Regarding claim 4, the admitted prior art of Fraccaroli further teaches including one or more of the e-mail address (col. 1, line 47).

Regarding claims 9, 11, the admitted prior art inherently teaches updating their details (col. 1, lines 32-34, see age, marital status, interests, which can be changed in the future).

Regarding claim 15, the admitted prior art also teaches that one device can function as both a message sending means and a message receiving means (e-mail, col. 1, line 47).

Regarding 17, the admitted prior art also teaches the communication link including the Internet, which inherently includes receiving and sending message (col. 1, line 46).

Regarding claim 18, the admitted prior art also teaches e-mail (col. 1, line 49).

Regarding claim 19, the admitted prior art also teaches relational database (col. 1, line 27-30).

Regarding claim 22, the admitted prior art also teaches a plurality of message sending and message receiving means, adapted to send messages to and receive message from the message pushing system (col. 1, lines 34-35).

Claims 5-8, 10, 12-14, 16, 20-21, 23-27, 29-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art admitted by Fraccaroli in view of Fraccaroli.

Regarding claims 5-6, the admitted prior art fails to teach that the database also includes information about the current location of the recipient. According to Fraccaroli, the database also includes information about the current location of the recipient (col. 10, lines 25-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Fraccaroli to the admitted prior art in order to provide the sender with the most updated information.

Regarding claims 7-8, the admitted prior art as modified also frequently visited locations which including previous locations in the frequently visited locations(col. 10, line 26).

Regarding claim 10, the admitted prior art as modified also teaches updating their details automatically (col. 9, line 66 – col. 10, line 3, location update).

Regarding claim 12, the admitted prior art as modified also teaches allowing messages to be delivered to recipients without the sender of the message knowing the identity of the recipient (col. 2, line 52).

Regarding claims 13-14, the admitted prior art as modified also teaches that the comparison between the details of the potential recipient and member's details on the database does not need to be exact and how close a match between details is required for that message to be sent to that potential recipient (col. 8, lines 43-46).

Regarding claim 16, the admitted prior art as modified also teaches mobile communication (fig. 1, numeral 102). The admitted prior art fails to teach using WAP or I-MODE. It is taken official notice that the art using Wireless Access Protocol in mobile communication is conventionally well known and considered as a standard. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include WAP to the system of the admitted prior art in order to allow mobile to access to the Web.

Regarding claim 20, the admitted prior art as modified also teaches that the message is transmitted to the recipient or recipients only on request from the recipient or recipients (willingness, col. 2, line 58).

Regarding claim 21, the admitted prior art as modified also teaches that a web site is used to display the message (col. 8, line 52).

Regarding the independent method claim 23, the claim is interpreted and rejected for the same reason as set forth in claims 2 and 5.

Regarding claim 24, the claim is interpreted and rejected for the same reason as set forth in claim 2.

Regarding claims 25-26, the claims are interpreted and rejected for the same reason as set forth in claim 3.

Regarding claim 27, the claim is interpreted and rejected for the same reason as set forth in claim 4.

Regarding claim 29, the claim is interpreted and rejected for the same reason as set forth in claim 6.

Regarding claim 30, the claim is interpreted and rejected for the same reason as set forth in claim 7.

Regarding claim 31, the claim is interpreted and rejected for the same reason as set forth in claim 8.

Regarding claim 33, the claim is interpreted and rejected for the same reason as set forth in claim 9.

Regarding claim 34, the claim is interpreted and rejected for the same reason as set forth in claim 10.

Regarding claim 35, the claim is interpreted and rejected for the same reason as set forth in claim 11.

Regarding claim 36, the claim is interpreted and rejected for the same reason as set forth in claim 12.

Regarding claim 37, the claim is interpreted and rejected for the same reason as set forth in claim 13.

Regarding claim 38, the claim is interpreted and rejected for the same reason as set forth in claim 14.

Regarding claim 39, the claim is interpreted and rejected for the same reason as set forth in claim 15.

Regarding claim 40, the claim is interpreted and rejected for the same reason as set forth in claim 16.

Regarding claim 41, the claim is interpreted and rejected for the same reason as set forth in claim 17.

Regarding claim 42, the claim is interpreted and rejected for the same reason as set forth in claim 18.

Regarding claim 43, the claim is interpreted and rejected for the same reason as set forth in claim 19.

Regarding claim 44, the claim is interpreted and rejected for the same reason as set forth in claim 20.

Regarding claim 45, the claim is interpreted and rejected for the same reason as set forth in claim 21.

Regarding claim 46, the claim is interpreted and rejected for the same reason as set forth in claim 1 in which Fraccaroli also teaches a plurality of communication links (see links between mobiles 102 and cell 104 in figure 1).

11) Response to argument

In the brief, considering the rejection of independent claim 1, the Appellant contends that Fraccaroli fails to disclose or suggest:

1) Details of an intended recipient of the message is sent to the system,

- 2) The system makes a comparison of the details of an actual intended recipient of the message with database of potential recipient details to determine the identities of one or more members who may be the recipient selected by the user, and
- 3) Transmitting the message to the message receiving means of the selected members who may be the intended recipient.

In response, regarding point 1, it is noted that in the background of Fraccaroli, in addition to their own matching profile, the requester or sender can also submit a request, which contains their **preferences** for a match with the matching profile of other customers (col. 1, 35-37). If the request message sent to the system **is not for intended recipients, preferences** are not required. In other words, the claimed intended reference can be read on the preference for a match.

Regarding point 2, after the preference for a match sends to the system, the system searches the database for matching profiles which matches the preferences in the request (col. 1, 37-40). Therefore, Fraccaroli does suggest the comparison of an actual intended recipient's detail.

Regarding point 3, in addition to informing the sender the of the **selected** match (col. 1, 42), Fraccaroli also teaches that the system gives the customers screen name **so that matched persons can initially correspond with each other via e-mail** without revealing their identities (col. 1, 45-49). Therefore, in Fraccaroli, the system not only transmits to the sender but also to the recipient so that the matched person can correspond.

Regarding the rejection of claim 7, the Appellant argues that Fraccaroli does not disclose that the database includes information about frequently visited locations of an intended recipient.

In response, Fraccaroli teaches that that an embodiment is optimal for a matching service for customers who **frequently** travel to different **cities or countries** and wish to be matched with others in **that city or country who have similar interest** (col. 10, 25-28). In other words, the database does store the cities or countries that the customer frequently visited so that the matched persons in those cities or countries can request for a match.

Regarding the rejection of claim 8, the Appellant argues that Fraccaroli fails to teach the location of the recipient includes previous locations.

In response, as immediately mentioned above, the frequently visited cities or countries do include previous, present and future visited cities or countries.

Regarding the rejection of independent claim 23, the Appellant further contends that the details include an appearance and location of the intended recipient.

In response, the appearance of the matched recipient was addressed in the rejection of dependent claims 2-3, and the location of the matched recipient was addressed in rejection of claims 5 and 7.

Claims 30-31 are not allowable for the same reason as set forth in claims 7-8, respectively.

Regarding the rejection of independent claim 46, the claimed "the message comprising personal characteristics of an intended recipient of the message based on personal characteristics of a specific intended recipient which are observed by a user of the message sending device" is similar to the limitation of independent claim 1 and has been addressed above in

which the requester or sender can also submit a request, which contains their preferences for a match with the matching profile of other customers (col. 1, 35-37) and this preference includes the age, race, gender, etc. (col. 1, 29-34). These preferences or characteristics are observed by the sender before submitting the request to the system for matching, see the term "selected" in col. 1, line 41.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

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